

FREEDOM
FROM RELIGION
foundation

AH Appignani Humanist
LC Legal Center

February 26, 2018

**SENT VIA EMAIL AND U.S. MAIL:
Nick.Guccione@wentzvillemo.org**

The Honorable Nick Guccione
Mayor
City of Wentzville
1001 Schroeder Creek Blvd.
Wentzville, MO 63385

Re: Viewpoint discrimination at Board meeting

Dear Mayor Guccione:

We are writing on behalf of the Freedom From Religion Foundation (FFRF) and the American Humanist Association (AHA) to express concerns over the Board of Aldermen's promotion of religion and its conduct toward a speaker at a recent Board meeting. FFRF and AHA are national nonprofit organizations that strive to uphold the constitutional separation between church and state, and to advocate for atheists, agnostics, humanists, and freethinkers.

Sally Hunt came before the Board of Aldermen on February 14, 2018 during the public comment period and expressed concerns over the large "IN GOD WE TRUST" display that the Board recently erected in its meeting room, which encircles all speakers coming before the Board. She discussed various problems with the display, emphasizing that the phrase excludes non-religious members of the community, including several of your constituents who privately informed Ms. Hunt that they are too afraid to publicly oppose the exclusionary display.

You told Ms. Hunt that "your five minutes is up" before five minutes had actually expired, then commented that "if that was the truth [that Wentzville citizens were too afraid to publicly oppose the display], we would hear from them. They're not afraid to let us know when they're angry about something." After a brief dialogue between you and Ms. Hunt on this point, you abruptly

asked police to remove her from the meeting. She asked for a reason and you responded, “your time was up, ma’am,” and “you’re from Maryland Heights.”

Following the meeting, Ms. Hunt asked the police to explain her forced removal from the meeting. The officers responded only by saying, “the mayor asked you to leave. . . . When he asks you to be removed, he has that right.” Ms. Hunt insisted, “He doesn’t have the right to just ask for somebody to be removed for no reason!” The officer simply responded, “yes he does.”

Your heavy-handed, dismissive treatment of Ms. Hunt—calling her a liar and then having her embarrassingly removed from the meeting by force—vividly demonstrates Ms. Hunt’s point that your constituents have good reason to be afraid to challenge the Board’s foisting of religion onto the rest of the community.

Regardless of your position on certain issues or your own personal religious views, the Board of Aldermen represent all citizens in the city of Wentzville, which consists of many residents who do not believe in, much less trust in, a deity. Your conduct toward Ms. Hunt, and your categorical dismissal of any opposition to the religious display among your constituents, sends a message of endorsement of religion over non-religion, and a message of exclusion to the 23 percent of Americans, including 35 percent of millennials, who are not religious.¹

City officials may not treat some speakers worse than others, including forcibly removing them from meetings, simply because the officials disagree with the speaker’s viewpoint. The Constitution forbids a state from punishing speakers based on their viewpoint. The Supreme Court explained that the government “must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.” *Rosenberger v. Rectors and Visitors of the Univ. of Virginia*, 515 U.S. 819, 829 (1995); *see also Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 45 (1983); *Widmar v. Vincent*, 454 U.S. 263 (1981); *City of Madison Joint Sch. Dist. v. Wisconsin Pub. Emp’t Relations Comm’n*, 429 U.S. 167 (1976); *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 546 (1975). “It is clearly established,” moreover, “that when a public official excludes an elected representative or a citizen from a public meeting, she must conform her conduct to the requirements of the First Amendment” and that “viewpoint-based restrictions violate the First Amendment regardless of whether they also serve some valid time, place, manner interest.” *Monteiro v.*

¹ Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, Public Religion Research Institute (Sept. 6, 2017), available at www.prri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

City of Elizabeth, 436 F.3d 397, 404-05 (3d Cir. 2006). Removing Ms. Hunt from the Board's meeting based on her unpopular viewpoint violates this basic constitutional protection.

Several Wentzville residents have contacted us because they object to the display of "IN GOD WE TRUST" on city property. Statements about god have no place at the seat of city government. Elected officials should not use their government position and government property to promote their religious views. As Ms. Hunt explained, the history of the motto "In God We Trust" evidences no secular purpose; on the contrary, the motto was first adopted during the Cold War as a reaction to the purported "godlessness" of Communism. Citizens are compelled to come before the Board on important civic matters affecting their livelihood, their property, and their quality of life. Nonbelieving citizens should not be made to feel offended, excluded, or like political outsiders because the city government they support with their taxes oversteps its power by prominently placing a religious statement at the seat of government. Nor can the Board treat the citizens who are excluded by this display differently when they express their objections.

In order to demonstrate the Board of Aldermen's respect for the diverse range of religious and nonreligious citizens living in Wentzville, we urge you to concentrate on civil matters and leave religion to the private conscience of each individual. We also ask that in the future you treat all speakers with respect regardless of whether you agree with their message. The Board should respect the rights of conscience of all its citizens, including those who in good conscience reject belief in a god.

Sincerely,



Ryan D. Jayne
Staff Attorney
Freedom From Religion Foundation



Monica L. Miller
Senior Counsel
Appignani Humanist Legal Center